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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/877,433	06/08/2001	Matteo J. Rosselli	ROS2.0002	1565

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EXAMINER

GORDON, RAEANN

ART UNIT	PAPER NUMBER
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3711

16

DATE MAILED: 04/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/877,433

Applicant(s)

ROSSELLI, MATTEO J.

Examiner

Raeann Gorden

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2002.
- 2a) ☒ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,4-14 and 16-25 is/are pending in the application.
- 4a) Of the above claim(s) 18-22 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23 is/are allowed.
- 6) ☒ Claim(s) 1,5-14,16,17,24 and 25 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-14, 16, 17, 24, and 25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The swivel member allowing the laser to be directed in a plurality of planes is not disclosed in the specification (claims 1, 13, 24, 25).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5, 6, 8-14, 16, 17, 24, and 25 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Jehn (5,284,345). Regarding claim 1, figure 1 of Jehn discloses a training device comprising housing having a laser (item 1), a swivel member

(col 2, lines 13-16), and an affixing means (col 2, line 58). Regarding claims 5 and 6, Jehn discloses Velcro as the fastening means (col 58). Regarding claims 8-10, the location of the device on the golfers body does not further limit the structure. Regarding claims 11 and 12, the direction of the laser is a method of use and does not further limit the structure. Regarding claims 13 and 14, figure 1 of Jehn discloses a training device comprising a housing having a laser (item 1), a swivel member (col 2, lines 13-16), and an affixing means (col 2, line 58). ("the means for providing an active comparison with an external reference" is a laser.) Regarding claims 16 and 17, applicant has not claimed the "alignment information" as part of the invention; therefore the visual and sound limitations do not further limit the claims. Regarding claims 24 and 25, figure 1 of Jehn discloses a training device comprising housing having a laser (item 1), a swivel member (col 2, lines 13-16), and an affixing means (col 2, line 58).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jehn in view of Cannone (4,406,040). Jehn discloses the invention as shown above but fails to disclose a clip as the fastening means. Cannone teaches a clip as the fastening means

(fig 2-4). One skilled in the art would have modified the fastening means to provide a secure connection.

### ***Allowable Subject Matter***

Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 23 is allowed.

### ***Response to Arguments***

Applicant's arguments filed 10-28-03 have been fully considered but they are not persuasive. Applicant argues the newly amended claims overcome the prior art because Jehn lacks a swivel member directed in a plurality of planes. However, as shown above, applicant's disclosure does not support the amended claims. For support Applicant's cites page 8, lines 8-13 and figure 1. The swiveling member is supported but the member directed in a plurality of plans is not supported. The disclosure is completely silent as to the direction the swivel member is capable of moving.

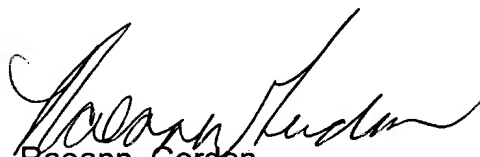
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raeann Gorden whose telephone number is 703-308-8354. The examiner can normally be reached on M-F 9-5.

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The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

A handwritten signature in black ink, appearing to read "Raeann Gorden", written in a cursive style.

Raeann Gorden  
Examiner  
Art Unit 3711

rg  
October 30, 2003